

ANDOVER BOARD OF HEALTH
Minutes
July 11, 2011, 6:00 P.M.
First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Donald H. Miller, Vice-Chairman, was not present due to a scheduling conflict.

I. Approval of Minutes

- **Regular Meeting of June 13, 2011**

The following corrections need to be made and then be reviewed again at the next scheduled Board of Health Meeting before the Board approves the Minutes of the June 13, 2011 Board of Health Meeting. Page 3 and page 5 will be in the packets for review.

- *On page three, last motion at end of page, reword the motion made after **Discussion:** because it is identical to the previous motion before the discussion. Changes made are:*
 1. *On first Motion, change “...seconded by Dr. Miller for discussion...” to ...”seconded by Dr. Miller for discussion only...”*
 2. *On the Motion after **Discussion:** Change “Ms. Martin amended her motion” to Ms. Martin restated her motion”*
 3. *Add this last sentence to the restated Motion “Ms. Martin polled the Board Members: Ms. Martin, aye; Dr. Miller, aye; Ms. Kellman, aye.”*
- *On page five, top of page, after number 6, change “Ms. Kellman abstained” to “Ms. Martin polled the Board Members with the following results: Ms. Martin, aye; Dr. Miller, aye. Ms. Kellman abstained. Vote was two for approval, one abstention.”*

****(Changes were reviewed and approved at the August 15th Board of Health Meeting and are corrected in the Minutes of June 13, 2011 that are posted on the Town of Andover Website.)**

II. Appointments & Hearings

- **6:00 p.m. – Charles Eliopoulos for My Brothers Place, Show Cause Hearing (Continued)** – Present were Mr. Charles Eliopoulos, his son Peter, and Michelle Cramm, Private Inspector. Mr. Carbone stated that the Board had copies of the Inspection Reports which show a big improvement. Mr. Carbone also performed an

unscheduled inspection and found just a few minor issues. Ms. Martin commented that it seems like the checklists are working well. Peter Eliopoulos informed the Board that the new refrigerator door has been fixed, and a contract has been signed with a floor cleaning company. Mr. Eliopoulos stated that he would like to keep working with Michelle; she helps by telling them what they are doing wrong and tells them how to make the necessary corrections. Ms. Cramm stated that she did not think a monthly inspection was needed anymore.

Motion by Ms. Martin, seconded by Ms. Kellman, to continue the Show Cause Hearing for another six months, with the requirement that there will be an inspection by a Private Inspector every other month. Unanimous approval.

- **6:15 p.m. – Sun Son for Boston King Café, Show Cause Hearing (Continued)** – Present were Sun Son and two of his employees, Rory and David. Mr. Carbone stated that the Show Cause Hearing was continued at the last Board of Health Meeting with the hope that necessary changes would be made. After two inspections by Health Staff there are still problems; there were improper temperatures, no hot water, missing soap, and dirty equipment. Ms. Martin stated that there should have been a checklist created after the last Board of Health Meeting. Mr. Son explained that since the inspections, he now has a soap pump, changed the hot water gauge, and bought a new thermometer. Mr. Carbone stated that Mr. Son should have noticed the deficiencies and taken care of the issues without having to be told. Ms. Kellman stated that the Board has seen success with establishments that have a Private Inspector, but in order for it to work, Mr. Son and his staff must have the mindshift to follow a checklist hour to hour, and daily as well. She stressed the importance of figuring out a plan with his staff to add detail to the checklist, figuring out a more frequent or more detailed checking of the items on the checklist because there were seven critical violations on the last Inspection Report. The more detailed the checklist the better. Ms. Martin stated that since the Boston King Café is a fairly new food establishment the Board should not be seeing critical violations and wants them to hire a Private Inspector to perform monthly inspections so the establishment can succeed.

Motion by Ms. Martin, seconded by Ms. Kellman to continue the Show Cause Hearing for three months, with the requirement that inspections by a Private Inspector be done monthly and be filed with the Health Division, and if there are any critical violations during that time, a meeting with the Board would be required at the next scheduled Board of Health Meeting. Unanimous approval.

- **6:30 p.m. – Eva Xu for Teatone, Show Cause Hearing (Continued)** – Ms. Xu and Private Inspector, Michelle Cramm, were present. Mr. Carbone explained that the Show Cause Hearing was continued from last month because Ms. Xu had a family emergency. Ms. Martin stated that there was one critical violation due to incorrect food temperatures in the report from the Ms. Cramm, in her June 2, 2011 Inspection Report. Ms. Cramm stated that the food establishment has a new cook who is knowledgeable, and, after a slow start, the staff has been moving in the right

direction. There are no habitual repeats and they fix whatever she asks them to. They have Staff ServSafe Certified and the Allergen documentation is posted. Ms. Xu felt that she still had room for improvement and would be willing to continue working with Ms. Cramm.

Motion by Ms. Martin, seconded by Ms. Kellman, to continue the Show Cause Hearing for three months with the requirement that inspections by a Private Inspector be done monthly and be filed with the Health Division, and if there are any critical violations during that time, a meeting with the Board would be required at the next scheduled Board of Health Meeting. Unanimous approval.

Discussion followed because Ms. Xu will be out of Town at the time of the October Board of Health Meeting, and a decision was made to make an amended motion.

Motion by Ms. Martin to amend the previous motion to continue the Show Cause Hearing for four months instead of three, based on a scheduling conflict. Unanimous approval.

- **6:45 p.m. – Ace Sushi at Stop & Shop, 209 North Main St. – Variance Request to Allow the Acidification of Rice in Lieu of Time & Temperature Controls:** – Present were Mr. Aldrin Cung, Regional Manager, and Owen Bouchie, from Stop & Shop. Mr. Carbone informed the Board that he reviewed the paperwork supplied to him and found some language needed to be changed and some documentation was missing that the Board of Health needed in order to approve the HACCP Plan. Sometimes the Board approves via Staff approval and other times the Board wants to see the plan. In the past, the Board has allowed this kind of a Variance after all documentation was submitted and approved. Rice needs temperature control, but the acidification makes it hostile to bacteria that would grow there. The rice cannot be rolled if it is chilled too much, so they take the rice, add vinegar to make it acidic, and then roll the rice. The Board was given some paperwork from JFC International, Inc on the Ace Sushi, (NY Region) list of frozen seafood products that have had parasite destruction and how they were stored.¹ Mr. Donal Coleman, Andover resident, asked the Board to look into how the product will be disposed of because he was concerned with the smell from the Dumpsters. Ms. Martin informed Mr. Coleman that the purpose of this Hearing was for the Board to discuss the Variance request, and that that was all the Board would discuss this evening.

After discussion, the Board felt confident that Ace Sushi could work out all the issues with Mr. Carbone to the Board's satisfaction and authorized Mr. Carbone to work with them to get all required documentation and conditions met. Mr. Carbone will schedule a meeting with Mr. Bouchie to discuss what conditions have to be met before final approval of the Variance. Ms. Martin closed the Hearing to public comment.

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Variance Request to allow the Acidification of Rice in lieu of time and temperature controls, with the requirement that any

¹ The document from JFC International Inc. has been inserted into the packet after page 31.

further details as required for review by the Health Division are received and that approval of the Variance is based on the final review and approval of the documents. Unanimous approval.

III. Discussion

- **Discussion of Complaints filed with the Health Division with Andover Resident, Donal Coleman:** Mr. Coleman filed three complaints with the Health Division and requested to speak with the Board. He stated that he never got any responses and would like to see the responses. He also asked if the Board gets a copy of every complaint, and the Board's response was that they do not. The complaints were as follows:
 1. **The High Street Snow Dump-** Mr. Coleman stated that there is a huge sand pile in the High Street Dump that could cave in on a child. He is concerned because he sees that the fence is not closed. Mr. Carbone stated that he did not find any large piles of sand and that the Department responsible for that property was the Department of Public Works. Mr. Coleman also stated that he had concerns in the past that there were contaminants in the High Street Dump that were getting into the drinking water. A Site Assessment Report was done and the results were that there was no evidence of problems at the site. Mr. Coleman stated that he requested a copy of the Report, but claimed he never received a copy. Mr. Carbone stated that he did send the report to Mr. Coleman, but that it was very lengthy and that he would have to charge Mr. Coleman for another copy. After discussion, Ms. Martin instructed Mr. Carbone to send a copy of the Executive Summary for the High Street Snow Dump Report from 2006 to Mr. Coleman.
 2. **There is a Dangerous Chain in the Parking Lot in Elm Square –** Mr. Coleman stated that he saw children playing with the chain. Mr. Carbone found no dangerous chains in the Square.
 3. **There is a Dog Day Care and Kennel being run at 91 High Street –** Mr. Carbone stated that this is not a Health Division issue.

Mr. Carbone will mail out a copy of the Executive Summary of the High Street Snow Dump Report as well as his responses to Mr. Coleman's complaints.

- **Set October Meeting Schedule –** The Board decided that the October Board of Health Meeting date will be October 17, 2011.

IV. Old Business

- N/A

V. Definitive Subdivision Plans

- N/A

VI. Plan Review

A. D.W.R.P. Variances/Local Upgrade Approval (LUA)

- N/A

VII. Staff Reports

A. Director's Reports:

- **Important Dates:**
 - August 15 at 6 p.m. – Board of Health Meeting
 - August 18 through 28 – Director's Vacation
 - September 12 at 6 p.m. – Board of Health Meeting
- **Update on Interns (Not on Agenda):** Mr. Carbone informed the Board that the Interns, Andrew Solomon and Debbie Case, have been very busy and have joined the Health Agents on some of their rounds. They are both doing well and are getting to the point where they will be finishing their projects. Last week Andrew flagged a couple of areas for ticks, but did not find any. Andrew attended a meeting down at the South Shore where he heard a speaker discussing this issue, so he contacted the man to ask if he was doing things correctly and asked for any suggestions. The man told Andrew that he was doing the right processes, but sometimes, the ticks just are not in the area that is being flagged. Suggestions were to look for grassy areas near blueberry bushes and talk to hunters. Andrew also spoke with the Conservation Director, Robert Douglas who agreed that Andrew should talk with the hunters to help since their goal is to decrease the tick population through deer hunting. On Wednesday Andrew will be going out with Mr. Daniel Tremblay, R.S., and they will try some areas that are better suited to finding ticks. The goal is to get a baseline number this year, and then next year some of the volunteers in Conservation could help to collect numbers so then in the future we can look at some long term numbers.
- **Update on 27 Kirkland Drive, Santangelo Court Case (Not on Agenda) –** Mr. Carbone informed the Board that he has been working very closely with Mr. Mark Santangelo and they have discussed his mother's well being. Ms. Kristine Arakelian of the Andover Senior Center will visit with them and help them to get in touch with someone who can help them. Mr. Carbone feels that Mr. Santangelo has come a long way and seems to be more confident about the cleanup. Ms. Martin asked about the inside of the house and Mr. Carbone stated that that was still an issue, but has hopes that with Social Services help they can work on that issue with them.

- **Ninety-Nine Restaurant Administrative Hearing (In Correspondence)** – Mr. Carbone informed the Board that he had an Administrative Hearing because the last three inspections showed on-going violations. Mr. Carbone explained that he has had a lot of success with the Administrative Hearings in the past with several food service establishments. The Hearings are held to try to avoid an appearance before the Board by giving the establishment a chance to correct the violations quickly. The Administrative Hearing process works well because we can look back over the years and chart out the repeat violations. Ms. Martin asked why there are so many violations with food service establishments, and Mr. Carbone replied that he feels it is a result of the times; when the economy is bad, business owners skimp on paying the help to clean. Mr. Carbone always advises the businesses that are having trouble to use a Private Inspector to help them out.

Ms. Martin asked if we charge a fee for the Administrative Hearings, and Mr. Carbone replied that we do not. He is hoping that with the new permitting system we will have shortly, we will be better able to track these issues and possibly put a fee into place. Ms. Martin asked if we could have a higher permit fee for the establishments with repeat violations. Mr. Carbone stated that a good idea would be to have a tiered permit; if there are no critical violations at the inspections, a fee could be paid at the base level, and be increased from there for food establishment with repeat critical violations.

- **Peking Garden Update (Not on Agenda)** – Ms. Martin asked if Ms. Kiu came in to look at the file like she said she would at the June 13, 2011 Meeting, and Mr. Carbone replied that she did.
- **Mosquito Issues** – Mr. Carbone informed the Board that the first positive find of West Nile Virus was in Boston. Mr. Carbone supplied the Board with the Massachusetts Department of Public Health Arbovirus Surveillance Program Report from July 11, 2011.² With the rise of the Culex population, the Mosquito Control District is recommending preemptive spraying in the surrounding communities. Historically, the Town of Andover will only do preemptive spraying if we have positive testing results in Town, and 2001 was the last time Andover sprayed. Ms. Kellman asked if Andover has to spray if other Towns do, thinking that since the other communities spray Andover would be covered. Mr. Carbone explained that the trucks that spray only do a 50' area at a time and that is not enough to cover large areas. At this time we do lavaciding at the catchbasins which is good for up to six weeks and try to keep the public informed on protecting themselves by using bug repellent and wearing proper clothing.

B. Nurses' Reports for June, 2011 – The Nurses' Reports for June, 2011, were for informational purposes only.

² The document from the Massachusetts Department of Public Health Arbovirus Surveillance Program Report from July 11, 2011 has been inserted into the packet after page 48.

- C. **Inspectors' Reports for June, 2011** – The Inspectors' Reports for June, 2011 were for informational purposes only.

VIII. Board Member Reports

- N/A

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:32 p.m. Unanimous approval.